

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ROBERT L. GARZA,	)	
	)	
Petitioner,	)	8:07CV338
	)	
v.	)	
	)	
FRED BRITTON and JON BRUNING,	)	ORDER
	)	
Respondents.	)	
_____	)	

Petitioner has filed a petition for writ of habeas corpus under 28 U.S.C. § 2254 (Filing No. 1), an application to proceed in forma pauperis (Filing No. 2), and a copy of his institutional trust account statement (Filing No. 4). After reviewing the statement, the Court finds that petitioner's average monthly income, as reflected in the trust account statement, is \$72.16.

Habeas corpus cases attacking the legality of a person's confinement require the payment of a \$5.00 fee. 28 U.S.C. § 1914(a). Pursuant to 28 U.S.C. § 1915(a)(1)-(2), and after considering the petitioner's financial status as shown in the records of this court, provisional leave to proceed in forma pauperis will be granted, but the petitioner must nevertheless pay the \$5.00 fee within thirty (30) days.

IT IS ORDERED that the application to proceed in forma pauperis (Filing No. 2) is provisionally granted, but the petitioner shall pay the filing fee of \$5.00 within thirty (30)

days of this date. Failure to do so, may result in dismissal of this case. The clerk of the court is directed to set a pro se case management deadline in this case using the following text: November 5, 2007, deadline for payment of \$5.00 fee has passed.

DATED this 3rd day of October, 2007.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court